A DISSERTATION CONCERNING POLITICAL EQUALITY, AND THE Corporation of New-York.

By JAMES CHEETHAM.

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1800.

A DISSERTATION

CONCERNING

POLITICAL EQUALITY,

AND THE

Extirpation of Vice-Lords.

BRITISH MUSEUM

By J. MES CHEETHAM.

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INTRODUCTION.

INTRODUCTION.

POSTERITY, if not the preſent age, will view the revolution of the United States as an event the moſt ſingular and extraordinary that ever occurred in the annals of human tranſactions. Whether we view it as data, from which the emancipation of Europe may be argued, or limit its benignity by the Miſſiſippi and the St. Laurence, ſtill it is important. In this, without adverting to the beneficial effects it has produced to every inhabitant on this Continent, it is an unanſwerable confutation of peſtilent doctrines of the advocates of deſpotic power, from the days of Sir Robert Filmer, to thoſe of Edmund Burke, viz. That Repreſentative Government, ſuch as ours is, can have no being but in the imagination, and conſequently is impracticable. In that, tho' the progreſs may be ſlow, and the concuſſions inſeperable from vaſt revolutions, great and numerous, yet the event is certain, viz. that Europe will, eventually, overthrow its preſent iniquitous Governments, and inſtitute polities more conſonant with juſtice and the ſolid happineſs of man. The imperiſhable ſentiment is gone forth, and the ſalutary work muſt be completed. The germ was indeed firſt planted in the United States, but its branches ſhall inwrap the globe. Reſiſtance to tyranny has taken an everlaſting root in the human mind, and that cauſe which produced the revolution of the United States, will give to Europe a double impulſe, becauſe doubly oppreſſed. Of this oppreſſion, and the obduracy of their oppreſſors, Europeans are ſenſible, and manifeſt an invincible deſire to redreſs their own wrongs. This mode is efficient; every other ineffectual; for deſpotiſm will concede that only which, for want of armed power, it cannot retain.

The grand ſentiment of our revolution is happily recorded in the declaration of independence. In it we behold an inimitable depiction of the ſentiments of a nation ſenſible of its wrongs, and riſing, in the impreſſive attitude of a people animated by one common ſen-

timent to assert its rights. This declaration contains, amongst others equally excellent, the following words, "We hold these truths to be self-evident, that all men are created equal." It was worthy the sage and patriotic assembly to recognize and incorporate in this its first act of legislation, a sentiment so correct and just that no argument, at no period, has been able to effect. And what is the induction from this thesis? That as all men are created equal, and as Governments are instituted by men for their mutual safety and comfort, it follows, that the right of all, to institute, is equal. So far the political equality of man extends, which is to the utmost limits, and so far the position has been sanctified by the wisest assembly the world ever knew.

This dogma, the foundation of our Government, though not perfect and in full force throughout the federal compact, yet it *approaches nearer to perfection than any other Government hitherto known.* We wish we could here say that this perfectability, like the ubiquity of God, extended itself to every political institution within our land. But that adherence to truth, of which we are tenacious, compels us to observe, that this principle was not universally infused into our state polities at the æra of the revolution. Every state exhibits in material points different and repugnant polities, and some of them strange contraventions of the original sentiment. We regret this want of uniformity, since we fear, that unless the just principle of equal representation do prevail in every state government, the republicanism of this country, pressed on all sides by so many deadly foes, must ultimately fall a sacrifice to their insidious arts.

Nevertheless, such is the nature of civil compacts, that the people have at all times an unalienable right to make such alterations as to them may appear necessary. In all such cases nothing more is necessary than to know that evils exist; to ascertain the causes from which they spring; and to apply remedies commensurate therewith. For as in other matters, so in politics, experience will best teach us the excellence of our institutions. Hence

the reaſonableneſs of this poſtulate, that it is a right inherent in the people to make ſuch alterations in their political ſyſtems as experience, the foundation of our knowledge, ſhall have demonſtrated to be neceſſary. The great object of civil polities is happineſs; and happineſs being the deſire of all men, it follows, that they have a right at all times to make choice of that ſyſtem which appears beſt calculated to produce the end.

Chapt. I.

Of Political Equality.

COMPARATIVELY, ſociety is in political ſcience, what infants are reſpecting knowledge, in a ſtate of ignorance. Notwithſtanding the laborious reſearches of ancient and modern politicians; notwithſtanding the rapid and coloſſian advances made in the United States in this branch of human knowledge, the world has not, even at this late period, diſcovered one ſingle principle which, like the lemmas in mathematics, may be laid down as incontrovertible. And yet until this be done until the rights of man ſhall be demonſtrated like the propoſitions of Euclid, and the generality of mankind be made acquainted therewith, the poſſeſſion of liberty, even when once eſtabliſhed, cannot be ſecure. We are deficient in the developement of fundamental principles, ſufficiently clear and undoubted. And yet it is neceſſary to have unerring ſtandards by a collation with which we might determine, when the proceedings of legiſlatures are in uniſon therewith and promotive of the general weal. Until we arrive at this ſtage of political ſcience and make mankind acquainted with its principles, the wars, the uſurpations, the tyrannies, the diſſonance, and the bickerings which deſtroy the life and ſolace of man, will not ceaſe to exiſt: tho' we ſhall find, as indeed we now do, that in proportion as we advance in the knowledge of this moſt neceſſary ſcience, and that knowledge becomes general, the condition of man will be meliorated.

The principle of equality will lead us to thisultimate point. It is on this principle *alone* that the liberty of

man is founded; and this is the criterion whereby we may determine, with conſiderable preciſion, the degree of liberty exiſtent in ſtates. If the ſcience of government ever be reduced to clear and determinate rules, it will be through the medium of political equality. For we invariably find that governments become deſpotic in the ratio that conſtituent power diminiſhes; or in other words, in proportion as governments become independent of the controul of the people, the people become the ſlaves of governments.

On the other hand, in proportion as the people poſſeſs the controuling power of the ſtate according to a known and mutually eſtabliſhed rule, they will be politically happy. For as man never wills that *knowingly*, which tends to deſtroy his happineſs, ſo he will never will the exiſtence of laws which will leſſen his felicity. If the beatification of man depended upon himſelf, and its attainment was within his own graſp, his felicity would be complete, ſince he would never will its attenuation. If this reaſoning holds good individually conſidered, it is not leſs ſo with reſpect to nations, which are compoſed of individuals. Therefore a government whoſe body ſhall be animated by the ſentiment of the people, and its actions dictated by their will, will not, *knowingly*, do that which will leſſen the happineſs of the whole. If ſuch a government ſhould ever err, it would be from want of *knowledge* (which is not probable) not from *deſign*. It is the difference of the being of equality which conſtitutes the difference between the political ſtate of the people of Ruſſia and thoſe of the United States. The former, ſlaves of the moſt abject condition, have no more power to controul or influence the government of Ruſſia than they have to controul or influence our own. Why? Becauſe thoſe who adminiſter that government do not depend upon the people for their offices: becauſe they are not amenable to the people for their conduct. The people therefore are of no farther conſideration in the ſtate, than as ſubjects of the taxation & inſtruments to operate the will of government. As if ordained by God, they live and labour only to conduce to the happineſs of their tyrants, and to nouriſh the mercileſs

hand that ſmites them. In the United States, tho' political equality is not as perfect as it might be, yet every man feels and maintains the dignity of his ſtation. The government is *really* the government of the people. It was they who modelled the body and breathed into it the breath of life. If it ſhould anſwer not the end deſigned, they have the ſame right to amend that they had originally to inſtitute it. Such is the difference between the political ſtate of the two countries.

And what is the cauſe that has produced this difference? A want of the eſtabliſhment of political equality, together with a want of knowledge of its importance, ſufficiently extenſive and correct to continue its being. Theſe are inſeparable companions in a national view, both in their progreſs and decienſion. We cannot attribute the political ſuperiority of the people of the United States over thoſe of Ruſſia to any other cauſe than their ſuperior weight and importance in the ſtate. Take away the weight and importance of the citizens of theſe ſtates from their government; make the government as independant of the controul of the citizens as that of Ruſſia, & it will become a vortex that will abſorb the earnings and the happineſs of the country; and the people, no longer the free and enlightened citizens of America, will become the ſlaves of its pleaſure.

Such is the nature and importance of political equality, that where it is not, the people, governed by a few men who by various means have uſurped the powers of the ſtate, muſt neceſſarily be vaſſals. If the eſtabliſhment of this principle in ancient Rome, had been as univerſal as it is univerſally juſt, the dagger of Brutus, to rid the world of a tyrant, would have been unneceſſary. To us who enjoy an equality in the ſtate unknown in other countries; it would be difficult to conceive the poſſibility of a man, however tranſcendent his talents and vicious his heart, to become a ſecond Cæſar; and ſo very improbable is ſuch a caſe, that the citizens, ſecure in the conſciouſneſs of their importance in the commonwealth, never dream of ſuch an event. The wholeſome equality of the ſtate, and the conſequent de-

fuſion of political knowledge, are the beſt ſafe-guards of the liberty of the people, and alone competent to curb the ambition and repreſs the attempts of the deſigning.

The law of equality is the law of God: and as its great author is immutable and eternal, ſo is this primeval principle. Nor is it likely that revolutions will ceaſe until its eſtabliſhment be as univerſal as man. What is it that has propelled the government of England to the precipice on which it now ſtands? The want of this equality, which like the repulſive power in the natural world, confines governments within their own bounds. Give us that weight in our national council to which by nature we are entitled; give us univerſal ſuffrage, is the exclamation of every honeſt, thinking man, from the two extremes to the centre of the kingdom. And if this equality had prevailed in the ſtate a century back, is it preſumable that the people would have been plunged into ſo many ruinous wars as they have been during that period? thoſe who think ſo will do well diſpaſſionately to examine the proceedings of the houſe of repreſentatives of the United States in the preſent conteſt with France. The wiſe and manly conduct diſplayed by this branch of the government is an effect; of what? of the controuling power of the people operating upon its proceedings. Suppoſe for a moment the Preſident of the United States inveſted with the prerogative of declaring war, like the King of England; and the Houſe of repreſentatives, the conſervatory of the republic, as much under his controul as the Houſe of Commons in England is under that of the Miniſter; is it not probable that war would long ago have been declared? Thoſe who have attentively obſerved the conduct of the executive; who have read his communications to the two houſes; his ddreſſes to the addreſſors, and judiciouſly conſidered the ſpirit of enmity manifeſted throughout, will hardly anſwer in the negative. At any rate, of this no man will doubt, that the United States have had as much cauſe to declare war againſt France as England had to commence the preſent one: and yet in the former caſe war has not been declared, but in the latter it has; and that

too, notwithſtanding the decided averſion manifeſted thereto by a very large proportion of the people. They clearly foreſaw and predicted that no good could reſult from ſuch a meaſure: and their predictions have been verified. But they were dragged into it by a government over which they had no influence, and whoſe power they could not controul but by open and active reſiſtance. To what cauſe then ſhall we aſcribe this difference but to the influence the people have over their government on the one hand, and the want of that influence on the other? and what gives this influence but the equality eſtabliſhed in the republic? Nothing. Here then we have a remarkable inſtance of the difference between a government created and eſſentially moved *by* the people, and one eſtabliſhed *over* them. The proceedings of the former are regulated by wiſdom and an ardent ſolicitude to promote the general good: thoſe of the latter by an inſatiable deſire to enrich the few concerned in wielding the hidious machine by the general wreck of every thing valuable to man.

Such is the operating force of this principle, and ſo well is it underſtood in practice by the ill-diſpoſed of every country, who have gained power in ſtates, that arbitrary government cannot be eſtabliſhed without circumſcribing conſtituent power*. In this they are correct. Conſtituent power cannot be wreſted from the people without proportionately endangering their liberty. The equality of man, the rightful foundation of legitimate governments cannot be abridged without a proportionable abridgment of public liberty. If, for example, our repreſentatives are dependent upon their conſtituents for offices in the ſtate, it neceſſarily follows, that in proportion as conſtituent power decreaſes, their independence, or diſregard of the intereſts of the people, increaſe. By the ſame unerring rule the dependence of

* *Whatever were the motives of those who dictated and passed the present naturalization act, it tends to this point in a given ratio. Constituent power has not increased with the increase of population: yet the mutual increase of these two, is the life and soul of representative government.*

our repreſentatives increaſe with the increaſe of conſtituent power. Of courſe, in the degree that this power prevails in ſtates, the will of the people will prevail in the governments.

Whether the effects herein mentioned have, or not, reſulted from the principle laid down, every man will determine for himſelf. But of this no one will doubt who has in the leaſt examined into men and meaſures; that in thoſe countries where the people have the leaſt power, governments are the moſt deſpotic, and the people the leaſt happy: as in England, the continent of Europe, and in oriental countries. It is therefore the buſineſs of the politician to explore and exhibit the cauſe. And here I think it is; the people of the United States are, beyond all doubt, more politically happy than any people of which we have knowledge; and that too, I am convinced, becauſe a greater equality prevails in the republic.

Hitherto we have written only of the effects in order to clear the way to examine and exhibit more perſpicuouſly the nature and extent of the equality of man. This ſubject has claimed the attention of the ableſt writers. Such indeed was the opinion of Mr. Locke concerning the equality of man, that he makes it the foundation of all the freedom and felicity that man can enjoy. In his chapter "of the ſtate of nature" he obſerves,

"A *ſtate* of *equality*, wherein all the power and juriſdiction is reciprocal, no one having more than another: there being nothing more evident than that creatures of the ſame rank, promiſcuouſly born to all the ſame advantages of nature, and the uſe of the ſame faculties, ſhould alſo be equal one amongſt another, without ſubordination or ſubjection, unleſs the Lord and maſter of them all ſhould, by any manifeſt declaration of his will, ſet one above another, and confer on him, by an evident and clear appointment, an undoubted right to dominion and ſovereignty."

"This *equality* of man by nature, the judicious *Hooker* looks upon as ſo evident in itſelf and beyond all queſtion, that he makes it the foundation of that obligation

to mutual love amongſt men, on which he builds the duties they owe one another, and from which he derives the great maxims of *juſtice* and *charity*. His words are."

"The like natural inducements hath brought men to know that it is no leſs their duty to love others than themſelves; for ſeeing thoſe things which are equal muſt needs all have one meaſure, if I cannot but wiſh to receive good, even as much at every man's hands, as every man can wiſh even to his own ſoul, how ſhould I look to have any part of my deſire herein ſatisfied, unleſs myſelf be careful to ſatisfy the like deſire which is undoubtedly in other men being of one and the ſame nature? To have any thing offered to them repugnant to this deſire, muſt needs in all reſpects grieve them as much as me; ſo that if I do harm, I muſt look to ſuffer; there being no reaſon that others ſhould ſhew greater meaſure of love to me, than they have by me ſhewed unto them; my deſire therefore to be loved of my equals in nature, as much as poſſible may be, impoſeth upon me a natural duty of bearing to them-ward fully the like affection; from which relation of equality between ourſelves and them that are as ourſelves, what ſeveral rules and canons natural reaſon has drawn for direction of life no man is ignorant." Locke on Gov, p. 177-8. § 4. 5. Lon. E. 1772.

But notwithſtanding the ſound arguments of theſe celebrated authors, of numberleſs others before and ſince their days, and what is, we think, of much greater force, the practical aſſertion of this equality in the United States, we ſtill ſee its authenticity queſtioned and even denied. And indeed ſo we do truths the moſt obvious by men whoſe deſires and propenſities are vicious, & by thoſe whoſe erroneous judgments reſiſtleſsly lead them into involuntary error. We ſhall nevertheleſs enquire into the being and nature of political equality, and endeavour to ſhew that governments not founded upon this principle, in its amplitude, are unjuſt, and that too exactly in proportion that the practice is an aberration from the principle.

The preſent condition of ſociety, even in the beſt regulated ſtates, affords no exact ſtandard to aſcertain the truth or falſehood of political equality. To determine this point ſatisfactorily, and to fix it on permanent ground, we muſt have recourſe to ſomething anterior to cuſtom. For if we make cuſtom the touchſtone of the problem, we ſhall find that it is incapable of furniſhing ground for ſatisfactory ſolution. Cuſtom eſtabliſhes nothing with reſpect to rights; ſince, univerſally conſidered, it is incapable of furniſhing matter out of which a propoſition may be made that ſhall be univerſally true. For example, inequality obtains moſt in governmental regulations; but yet it does not univerſally obtain. Therefore we cannot make inequality an univerſal propoſition in the ſcience of government. We have a living and potent exception in the popular branch of our own government which deſtroys the univerſality of the poſtulate. This reaſoning will alſo apply with equal force againſt the being of equality in *practice*; ſince we have numerous inſtances of governments founded indeed upon the deſpotiſm of a ſingle individual, which deſtroys *practical* equality as an ubiquitous propoſition. Cuſtom therefore furniſhes no rule capable of affecting the ſubject one way or other. When two cuſtoms therefore prevail diametrically oppoſite, how ſhall we determine the truth of either? By recurring to principles of being antecedent to both.

To do this we muſt diveſt ourſelves as much as poſſible of the ideas that habit has excited and fixed in the mind, and view the ſubject apart from the prevailing practices of men. We muſt trace and endeavour to diſcover the principle by which civil ſociety muſt be regulated if juſtly conſtructed: and inſtead of permitting the forms & practices of government ſo to take poſſeſſion of the mind as wholly to obliterate even the remembrance of firſt principles; ſuffer unfhackled reaſon to glance into the illimitable field of nature, and to contemplate principles, of nature unchangeable, in their pure and unadulterated ſtate. For the principle of civil government, like that by which a clock is regulated, has ſeparate being from the machine; ſo that notwithſtanding the machinery

may be imperfect, yet the imperfection affects not the principle by which it ought to be regulated.

To underſtand then the nature of political equality we muſt advert to the condition of man in a ſtate of nature, i. e. antecedent to the formation of civil covenants. We ſhall then be able clearly to perceive the only equitable mode in which civil governments can be conſtructed.

But it has been aſſerted that there never was a period when men lived together without civil law, and thence inferred, that that ſtate of nature mentioned by various authors is a mere chimera. It may therefore be neceſſary to refute this erroneous hypotheſis in order to clear the way for the admiſſion of the doctrine of equality. This we ſhall do in a two-fold manner:

Firſt, Theoretically; and

Second, By the aduction of a practical example of men living together in a ſtate of nature; i. e. without laws to govern them, and actually and mutually making covenants for themſelves as if laws had never been.

Firſt. We think it ſucceptible of exact demonſtration that there has been a time when men lived together *totally* without human laws. The very exiſtence of laws proves that there muſt have been a period whether known or not to ourſelves, when no law or rule of action made by men did exiſt. For example, when we ſee fleets built and towns erected, what are we to conclude but that they are the productions of men whoſe being muſt have been prior to our own? In the ſame manner the being of human law is an effect: of what? Of the being of man antecedent to that of law. Law being made by man, if man had not exiſted law would not have been. The exiſtence of law demonſtrates the previous exiſtence of man, from whom they ſpring; in the ſame manner that the being of human intelligence (b.) demonſtrates the pre-exiſtence of God the great cauſe of every thing that is. Both are the effect of their predicates.

b. *See Locke on understanding vol. 2. p. 192. Lon. Ed. 1793.*

Therefore, it is as ſelf-evident as that one and one when combined make two, that if laws exiſt they had beginning and if beginning, there *muſt* haye been a time when men lived together without law.

But tyranny itſelf, which inceſſantly bends its baneful force to lock up the intellectual powers of man, has, without intending it, furniſhed the world with a recent inſtance of men living together in a *ſtate of nature, abſolutely without civil rules*, and mutually coaleſing to make laws for themſelves in that juſt and equitable mode for which we contend. The caſe to which we allude is a memorable one; *it was a great mean of laying the foundation of a great and happy commonwealth, a land of patriots and of ſages, and the beſt refuge of oppreſſed men.* It is that of Mr. John Robinſon and the venerable band of patriots who fled from the tyranny of the Engliſh government, and fought, in the wilds of New-England, for that liberty and repoſe ſo criminally withheld from them in their native land (c).

This religious band which, minors and adults, conſiſted of one hundred and one perſons were, what is termed in eccleſiaſtical language, puritans. Puritaniſm at that day [In the reign of James I.] was deemed an innovation of the Dogmas of the eſtabliſhed church. And as all eſtabliſhed churches do, and from their nature perhaps ever will, perſecute and tyranize over Diſenters, we have here a memorable inſtance of their infuriate ſpirit and of the ſad effects of theſe baleful eſtabliſhments. No ſooner was primitive Chriſtianity attempted to be revived and the frippery and inanity of church eſtabliſhments attacked, than the engine of ſtate, moved by ſacerdatal power, ſingled out as victims of its ven-

c. *The perſecution and tyrany which theſe chriſtian patriots ſuſtained were ſuch as invariably flow from that worſt ſpecies of misrule the admixture of church and ſtate. And this example of their ſhocking effects, were there none other, ought to operate all powerfully on the minds of every American citizen to reſiſt, by all conſtitutional means, an union of any church with the ſtate—The hiſtory of man ſpeaks plainly and powerfully to his underſtanding that, when men of religious profeſſion, obtain political predomenancy in ſtates, they are of all others the moſt iron hearted tyrants. Therefore, as America values her liberty, let her guard moſt ſcrupuously againſt their undue acquiſition of political power.*

geance, all thoſe who did not worſhip ſelf-exiſtence, in the manner preſcribed by this *pious government*. Uniformity of religious ſentiments and worſhip were the oſtenſible, but the gratification of church ambition, and the furtherance of church emolument, were the real objects in view. The former, if real, was impracticable. The latter, alaſs! is not ſo: nor will the world ceaſe to be infeſted with theſe peſtilential eſtabliſhments until mankind begin to reaſon and to act like rational beings. They will then ſee their inutility; they will then perceive the wicked purpoſes to accompliſh which they are wholly devoted. For ſurely nothing can be more blaſphemous than to puniſh men for not univerſally thinking alike! This is the worſt, the moſt inequitous, and the moſt intollerable of tyrannies. It would be as eaſy for tyrants, eccleſiaſtical or civil, to callapſe the earth & ſun as to make men to think and to act alike. Uniformity of action muſt flow from uniformity of thinking; and uniformity of thinking from human intelligence, uniformly and univerſally perceiving alike; which perhaps cannot reſult from the preſent organic conformation of man. And indeed if we did univerſally perceive alike, then acts of conſtraint would be unneceſſary; but as we do not nor cannot, nothing can poſſibly reſult from conſtraint but victims and hypocrites.

But church authority ſeldom reaſons well or much. An act was paſſed for puniſhing all who refuſed to come to church, or were preſent at any conventicle or meeting. The puniſhment was impriſonment till the convicted agreed to conform, and made a declaration of his conformity. If that was not done in three months, he was to quit the realm, and go into perpetual baniſhment. In caſe he did not depart with n the time limited, or returned afterwards without a licence, he was to ſuffer death." Ramſey's history of the revolution p. 6. L. E. 1793.

Such was the nature of this unjuſt and mercileſs act that the Puritans were neceſſiated either to ſeal their own infamy by profeſſing to conform to what in good conſcience they could not; to ſuffer death as ſome of them

actually did, (d) or to go into perpetual exile. Mr. Robinſon and his virtuous aſſociates preferred the laſt alternative. They ſailed from England in the year 1620, deſtined to America. But as they were victims of the tyranny of the ſtate; as they were going into exile to avert conſequences to them infinitely more diſagreeable, ſo they ſailed from England deſtitute of the protection of government. They had neither patents conceding to them extenſive dominion, nor conſtitutions of government for the regulation of their civil life. As the government drove them out of the "realm," ſo it abdicated the protection it owed them while within it. They were therefore left as much to themſelves with reſpect to having no law, but having laws to form, as if they were the only perſons upon the globe. In this light they viewed their ſituation and acted accordingly. For we find that, before they ſtepped a foot on American ground, a meeting was mutually called to conſider the propriety of making a conſtitution by which they ſhould be governed after landing (e) They entered into a "ſolemn compact," (f) to which they all ſubſcribed their names, thereby making it the baſis of their government.

From theſe hiſtorical evidences we learn,

Firſt, that when Mr. Robinſon and his co-exiles arrived at the coaſt of America, they found themſelves in an *absolute state of nature*, i. e. a body of men about to

(d) *See Idem. p.* 6.

(e) "*Before landing they formed themselves into a body politic under the crown of England for the purpose of* "*Framing just and equal laws, ordinances, acts, constitutions, and offices,*" *to which forty one*" (*every adult*) "*of their number subscribed their names, and promised all due submission and obedience.*" *Ramsey's history p.* 7.

(f) *The following is an authentic copy of this contract.* "*In the name of God Amen. We whose names are under written, having undertaken, for the glory of God, and the advancement of the christian faith, and honour of our king and country, a voyage to plant the first colony in the northern parts of Virginia, do, by these presents, solemnly and mutually, in the presence of God, and one of another, covenant and combine ourselves together into a civil body politic, for our better ordaining and preservation, and furtherance of the ends aforesaid; and by virtue thereof to enact, constitute, and frame, such just and equal laws, ordinances,*

enter upon and to cultivate an unknown land, totally without law to govern them. But as they were likely to continue in a gregarious ſtate, it was neceſſary, for the furtherance of the ends for which governments are inſtituted, that they ſhould enter into that "ſolemn covenant." Here then was the beginning of that body politic, and though its component parts were but few, yet if the principle on which they proceeded be juſt, it will apply with equal force and preciſion to indifinite numbers. That compact, like every other, muſt, in its operation affect every one within its jurisdiction; and as all were to be affected by it, it belonged to all to have an equal ſhare in its conformation. Accordingly we find that *every adult* was not only preſent at its making and his preſence conſidered neceſſary to its legitemacy, but that they all ſigned the agreement. The latter is conſidered as a circumſtance peculiar to the caſe, but the former as a right that can never be impaired (g).

We are then got ſo far. We find that a ſtate of nature has a real being, and that however men may abuſe

acts, conſtitutions and offices, from time to time as ſhall be thought moſt meet and convenient for the general good of the colony; unto which we promiſe all due ſubmiſſion and obedience: in whitneſs whereof we have hereunto ſubſcribed our names, at Cape Cod, the 11th November, in the year of the reign of our ſovereign lord king James, of England, France and Ireland, the eighteenth, and of Scotland the fifty fourth, Anno Domini 1620."

"*This inſtrument was ſigned by* 24 *heads of families, with the number of their reſpective families annexed, and* 17 *ſingle men, making in the whole* 101 *ſouls!*" *See Morſe's geog. v.* 1. *p.* 318. *Boſton E.* 1793.

(g) We might multiply inſtances of men being in a ſtate of nature until the reader would be weary. We ſhall juſt mention another. Vattel, in his law of nations, has this paſſage.

"*Nations being compoſed of men naturally free and independent, and who, before the eſtabliſhment of civil ſocieties, lived together in the ſtate of nature, nations, or ſoverign ſtates, are to be conſidered as ſo many free perſons living together in the ſtate of nature.*" *P.* 49. *New-York E.* 1796.

Nations are, therefore, in relation to each other, what men are before they enter into civil ſociety, in a ſtate of perfect freedom and equality. Governments, conſidered with each other, defend, with great pertinacity, this natural freedom and equality. But they are ſeldom willing to allow freedom and equality to belong to thoſe whom they govern.

thoſe rights which flow from that ſtate, yet the abuſe neither affects the abſtract principle nor weakens the claim of man to its full fruition. In what then does this equality conſiſt for which even in a ſtate of nature, we contend? Not in bodily ſtrength or ſymmetry; not in mental capacity or the acquirement of knowledge, for in theſe we ſee no univerſal equality; *but in the equal right which every man has, when at years of diſcretion, in the affairs of that government, inſtituted by and for the benefit of that ſociety of which he is a component part.*

A ſtate of nature is a ſtate of perfect freedom and equality; and as it is a ſtate of freedom and equality ſo it is a ſtate of peril and inſecurity. Good government is alone competent to correct the evils to which every man is expoſed in a ſtate of nature. For where there is no law common to all, individual reaſon is the only meaſure of men's actions which muſt neceſſarily render the poſſeſſion of life, and liberty, and property, extremely uncertain. Nor could real offences, in ſuch a ſtate, be puniſhed. For where is the authoritative tribunal to determine the magnitude of offences and the puniſhment due thereto? There is none. And as there is no common ſtandard to determine, ſo there is no power to retribute offences but ſuch as reſide in individuals. It is to ſoften theſe aſperities of nature that men unite in civil ſociety, that they agree to rules of action that ſhall apply to thoſe covenanted, and to lodge the power of puniſhing offences againſt the common weal, in the hands of the body politic. To transfer this power, *partially*, to judge and to puniſh from individuals, in whom it originally reſided, to the whole ſociety, is a principal end of government. For (all things conſidered) a ſtate of nature would be preferable to that of the civil ſtate, if in it men could be ſecure from thoſe injuries of which the civil ſtate takes cognizance. But as they cannot, and as it is neceſſary for the ſafety of mankind that crimes ſhould not go unpuniſhed, civil government founded upon univerſal juſtice, is the proper and only corrective.

The great end of government is ſecurity. This includes the protection of life, liberty, and property. Men can have no other motive for uniting in civil ſocie-

ty than the attainment of theſe primary objects. This protection can only be effected by placing the power to judge of and to puniſh offences *ſomewhere*. For no method hath yet been deviſed, and perhaps never will be, calculated to render men incapable of perpetrating offences. All that ſociety can do, even in its beſt ſtate, is to puniſh tranſgreſſion according to its degree of turpitude. Governmental example and wholeſome laws may do much, but they cannot make bad men good. Puniſhing the offences of ſome, and forbidding, generally, the commiſſion of certain acts under pains and penalties, are the great means of protecting the whole. Legiſlative, executive, and judiciary powers, are all founded upon the reaſonable preſumption that offences againſt the well being of ſociety will be committed, and the neceſſity, for the end of general protection, that proviſion ſhould be made for their rightful punition. There are, doubtleſs, other objects which come properly within the province of internal legiſlation. But *protection* is the mighty one and *puniſhment* the great mean to accompliſh it. And however multiform the means employed may be, yet the end is eternally and identically the ſame.

Such are the great points to be attained by men quitting the ſtate of nature and individually ſubmitting their actions to be judged by one common ſtandard erected by mutual conſent and for reciprocal advantage.

And here we ſhall endeavour to ſhew the nature of political equality, which we conceive ſuſceptible of ſuch clear demonſtration that if we fail in demonſtrating the reaſonableneſs and univerſality of the principle, the fault will be our own.

Suppoſe a given number of men, ſay one thouſand, living together in the ſtate of nature, ſtrangers to law, but, conſcious of its importance, mutually coaleſcing to inſtitute rules by which the whole ſhall be governed. Now it is obvious that, if the principle that will apply to one thouſand be juſt, it will not be leſs ſo when applied to one million, or one hundred millions. The principle and its operation will be preciſely the ſame, and to apply it to any number it is only neceſſary to extend

the idea as the numbers increaſe. Previous to entering into this pact they muſt all needs be equal, that is, no one could poſſeſs more privileges than another. Corrupt eſtabliſhments only have created political diſtinctions in conſtituent rights. For in a ſtate of nature, in which there is no law, there cannot be privileged ſuperiors; and where there is no privileged ſuperiors fictitiouſly created, the indubitable equality of men, ſtanding upon the broad ground upon which God hath placed them cannot be denied. The chief object to be attained by commuting the ſtate of nature for that of civil ſociety is protection. Now protection is equally due to all conterned. To whom then does the right of making this compact belong that ſhall effect the lives, and liberty, and property of the whole? clearly, if of ſane mind and mature age, to every one of the number covenanting, whoſe every thing will be affected thereby. If one half, for inſtance, ſhould aſſert that they have the excluſive right to make a compact for the other, whence did they derive that right which does not belong to the whole? no one can tell. It is clear they could have no ſuch right. If the right belong to any, then by this undoubted axiom "It is impoſſible for a thing to be and not to be at the ſame time;" it is impoſſible the right can belong to one without belonging to the whole. "Things which are equal to the ſame are equal to one another." (h) Therefore, men being equal, if the right to inſtitute belong to one man it equally belongs to another; It cannot belong to a part without belonging to the whole. Again, "The whole is greater than its parts." (i) But the parts muſt forever retain the properties and qualities of the whole in the ratio of their quantity of matter. So it is with a Government. The right to begin, to erect, and continue a Government belongs ſolely to the community or whole for which it is intended. Divide that community into the ſmalleſt poſſible number, ſay one, and by parity of reaſoning it will be found that as the right appertains to the whole, ſo in equal proportions, it appertains to

(h) *Simſon's Euclid, p.* 5.
(i) *Idom, p.* 6.

to its parts: and consequently, if the right belongs to one man, it equally belongs to another.

Such is the essence, the foundation, and such our ideas of political equality. And so earnestly do we wish to be right in this matter; and so thoroughly are we convinced that the principle here laid down is correct, that should we be herein mistaken we desire to be corrected by *argument*: And we shall esteem ourselves favored by any one who will point out the error.

Now as it would be palpably unjust and an act of great violence for one half of the number mentioned to deprive the other of their right of suffrage in the conformation of the original compact, so it would be proportionately unjust in any other given number. If ninety nine hundredths should combine to deprive the hundredth person of his right of elective franchise, tho' the crime would differ in degree of turpitude, it would nevertheless be of the same kind. This necessarily follows from the principle already advanced and explained, viz. that the right of suffrage cannot belong to one man without belonging to another; that it cannot belong to a part without belonging to the whole; and the whole being made up of parts, it follows that equal parts must have equal rights. Therefore, every person who is deprived of this right, sustains an act of great violence, and is thereby, in appropriate language, made a slave. For what can be greater slavery than to be subject to the will and controul of our fellow men? It is in this that slavery consists: It is against this base villainage that the free mind of man perpetually revolts.

Every disfranchisement, however few the number disfranchised, is unjust, and originates in *power* not in *right*. To illustrate this position we will suppose a case. Suppose when the federal compact was made, twelve states of the United States had combined to extend that confederation to the thirteenth, and "to bind it in all cases whatsoever," without allowing the state its right to an adequate share in the choice of the government;—would not such a proceeding have been a gross violation

of the rights of the ſtate? As the federal compact was intended for the government of the whole, had not each ſtate an equal right, according to its population, in the choice and formation of that government which ſhould bind the whole? Moſt certainly. If one ſtate poſſeſſed the right, ſo did another, and ſo did the whole. Such an aſſumption would have been a palpable infraction of the rights of the ſtate, and predicated only on the *power* of the *twelve ſtates* to bind the *thirteenth*. This is obvious. And is it leſs ſo for a larger or ſmaller number of people to combine to deprive any portion of the community of their equal rights as men? The ſuppoſed diſmemberment of the ſtate, and the ſuppoſition of the twelve ſtates combining to bind the thirteenth to their will, ſtands preciſely on the ſame ground. In principle they are parallel: In practice both caſes are unjuſt according to the number of people diſfranchiſed. And hence it is evident that for governments to be juſtly conſtructed, they muſt be founded upon the univerſal equality of man; & that where they reſt not upon this broad baſis, they are uſurpations in proportion that this equality is wanting.

Privation of conſtituent rights, whether on an extenſive or ſmall ſcale, neceſſarily places mankind in a ſtate of ſentimental warfare; and there is no poſſible method of extirpating theſe ſeeds of diſſonance and diſſolution, and of rendering univerſal ſatisfaction, but by giving to mankind their equal rights. Nor will this warfare be confined to mere ſentiment longer than the injured and inſlaved become ſufficiently powerful to reſiſt the tyranny. And then, both theory and modern hiſtory evinces that, impatient of unreaſonable and unneceſſary reſtraint, and indignant at the galling thought that a large moiety of mankind live only to ſubſerve the wants of the other; they burſt forth like reſiſtleſs torrents; ſweep away the odious and unſufferable tyranny, and involve for a time, both the innocent and the guilty in indiſcriminate chaos and bloodſhed. But though the act be dire, yet it is neceſſary. Though revolutions are evils during their exiſtence, yet, their ſeeds being ſown in the inequality

of men, it is to be expected that, nurtured by the genial warmth of patriotism, and the unextinguishable love of man for the enjoyment of liberty, the period of their maturity must arrive. This was the case with these states: this was the cause which impelled and precipitated France into her present revolution, and called into being that potent republic. But as liberty, with her consequent order and happiness, has arisen from the revolution of the former, so, we doubt not but that equal liberty, and order, and happiness, will result from the latter.

Political inequality, like every act of violence, has nothing to defend it but force. It is a crime of the most atrocious kind. It is engendered in wickedness; it is nourished by venality; it is upheld by power: and it continues to be, until both become too weak for its support; and then, like useless and exploded kings, it descends to its natural level. Its strong hold is ignorance; consequently, as the human mind becomes illumined, the huge colossus crumbles into dust, and oppressed man, rising from his dungeon, resumes the station assigned him by his maker.

That political inequality is founded solely on *power*, and is in its nature the highest species of injustice, will appear still more evident by pursuing the subject a little further. For this purpose we beg the reader to bear in mind the idea of a given number of men, jointly leaving the state of nature and uniting to establish a government for mutual advantage. This done, admit the assumption of the rights of the whole by one half the given number. Could a government so constituted be binding upon that half whose assent thereto had never been required, and in the instituting of which they had nothing to do? We answer no. The consent of all the parts is indispensibly necessary to the legitimacy of the government. The assent of the whole to particular modifications is not nor cannot be expected. In all such cases the assent of the majority of the whole must forever be final. But what we contend for is the equal right of all to give being to and continue the existence of govern-

ment. For as the conſent of the parties is neceſſary to make valid a contract between two men, ſo the conſent of all the parts of the community is alike neceſſary to make valid a national compact. Both theſe poſitions flow from the ſame ſource, viz, that one man cannot of right be bound by another againſt his conſent—To be free from ſuch bondage is the only ſecurity we have for the preſervation of every thing eſtimable to man. National freedom, & the right of ſelf-preſervation, appertains equally to all men. But of what importance are theſe invaluable bleſſings if one part of mankind can, when they pleaſe, deprive the other of theſe firſt of all gifts? They are of none. That liberty which ſhould never be ſurrendered but with life, that preſervation in the ſtate which ſhould never be loſt ſight of, would be of no value.

But there is another branch of this doctrine which requires inveſtigation and developement. For the purpoſe of reconciling a large moiety of mankind to their ſtate of ſlavery, a doctrine has been ſeduloufly propagated, that in the civil ſtate it is neceſſary to give up a great proportion of our *natural* rights in order to ſecure the enjoyment of the reſt. This doctrine has much plauſibility and force where thought and inveſtigation is wanting. It is therefore well calculated to delude the ignorant, and is much inculcated by thoſe who profit by the fraud. It is univerſally propagated in deſpotic countries. A large proportion of Engliſhmen are laid aſleep with the powerful opiate. The ſenate and the bar reſounds with this enſlaving doctrine; and three-fourths of the people are at this moment ready to ſolace themſelves with the very comfortable idea, that the fewer privileges they enjoy in the kingdom, the more they comply with the juſt principles of civil government. Alaſs! what ſtate is there to which uninformed men cannot be reduced by the perfidy and cunning of civil and eccleſiaſtical tyranny?

In order to give this topic an ingenuous diſcuſſion, and to bring it fairly before the tribunal of the public and of reaſon, we ſhall cite the opinions of two reſpectable authorities who differ widely on this ſubject. Theſe are

Mr. Locke and Mr. Vattel. Though we confeſs, that had the mind the reſearches and the information of Vattel, which enabled him to reaſon on this ſubject with the ſtrength and preciſion of Locke, yet any one who reads his book, will eaſily perceive that he was an advocate for kingly power, and that a prepoſſeſſion of this noxious ſentiment muſt have biaſſed his mind on this point. We ſhall nevertheleſs conſider the poſition apart from the conſideration of men: we ſhall examine the principle and decide accordingly.

LOCKE.

"*Law*, in its true notion, *is* not ſo much the limitation as *the direction of a free and intelligent agent* to his proper intereſt, and preſcribes no further than is for the general good of thoſe under that law: could they be happier without it, the *law*, as an uſeleſs thing, would of itſelf vaniſh: and that ill deſerves the name of confinement which hedges in only from bogs and precipices. So that however it may be miſtaken, *the end of law is* not to aboliſh or reſtrain, but *to preſerve and enlarge freedom*: for in all the ſtates of created beings capable of laws, *where there is no law, there is no freedom*: for *liberty* is, to be free from reſtraint and violence from others; which cannot be, where there is no law; but freedom is not

VATTEL.

"It is evident from the law of nature, that all men being naturally free and independent, they cannot loſe theſe bleſſings without their own conſent. Citizens cannot enjoy them fully and abſolutely in any ſtate, becauſe they have ſurrendered a part of theſe privileges to the ſovereign." Law of nations. P. 50. New-York E. 1796.

as we are told, a liberty for every man to do what he lists: (for who could be free when every other man's humour might domineer over him?) but a *liberty* to diſpoſe and order as he liſts, his perſon, actions, poſſeſſions, and his whole property, within the allowance of thoſe laws under which he is, and therein not to be ſubject to the arbitrary will of another, but freely follow his own." Treatiſe of gov. p. 218. 19. L. E. 1772.

Though M. de Vattel has not gone as far in giving up men's rights as ſome miniſterial civilians and hereditary ſtateſmen in Europe, yet, it would have been no more than fair to have told us what theſe ſurrendered privileges are of which he ſpeaks. He ſeems to have contented himſelf with the ſimple declaration that we have "ſurrendered a part of our privileges to the ſovereign." It is eaſy to make ſuch an aſſertion, but it is not as eaſy to prove its truth in principle. If he meant it as a *mere fact*, when applied to ſome ſtates, its authenticity cannot be doubted. Indeed he might have gone farther. Nineteen twentieths of the people of England have ſcarcely any privileges. The ſame may be ſaid with equal truth of thoſe of Germany, Ruſſia, Pruſſia, of almoſt all Europe, and certainly of all Aſia. But this was not his meaning. He as well as others who have carried the point further than himſelf, advance it as the regular operation of principle, neceſſary and unavoidable on men entering the civil ſtate; and on this ground we ſhall proceed to conſider it.

If the words that men "have ſurrendered a part of the privileges of nature to the ſovereign," have any im-

port, it is this, that every perſon, on entering the civil ſtate, *neceſſarily* ſurrenders to the contracting parties or "ſovereign," a part of the privileges appertaining to him in the ſtate of nature. In order to determine this poſition it is neceſſary to deſtinguiſh what privileges there are in the ſtate of nature which men cannot enjoy in the civil ſtate. Until this be done, we ſhall prate like parrots, without having in the mind a clear and diſtinct perception of the things of which we ſpeak. Here then we declare without heſitancy or ambiguity, that we know of no privileges appertaining to men in the ſtate of nature which they cannot enjoy in the civil ſtate compatibly with the juſt principles of civil government.

What privileges are there belonging to man in the ſtate of nature, the fruition of which are neceſſarily denied them in the civil ſtate?

It may be ſaid that in the ſtate of nature the actions of men are not reſtrained, that there being no authority eſtabliſhed by law to puniſh offences, men are free to do what they pleaſe. So far as this relates to the *power* of man to do wrong in the ſtate of nature, without being ſubject to puniſhment by the regular operation of law, the poſition is correct; but certainly not so as to *right*. Reaſon exclaims as loudly againſt injuſtice in the natural as in the civil ſtate. It is not that because there is no law to puniſh injuries done in the natural ſtate that men are free to commit them; ſince the ſame injuries done to our fellow men in the natural, are as great offences againſt reason and juſtice as they are againſt law in the civil ſtate, which is no more than the expoſition of that reaſon & juſtice which equally pervades both. If a man in the ſtate of nature ſhould invade and ſack his neighbour's property, deprive him of life or limb, or immure him in durance during his pleaſure; would ſuch acts be crimes of leſs magnitude in the eye of reaſon becauſe in that ſtate there is no law to puniſh ſuch offences? Certainly not. Reaſon, on which punative laws againſt burglary, houſebreaking, murder and the like are founded, condemns the commiſſion of theſe offences in the ſtate of nature, as much as the laws founded thereon will puniſh their per-

petration in the civil ſtate. *Mutual juſtice*, and that love of ſelf-preſervation predominant in every man, ſolemnly and powerfully forbids us, in *every ſtate*, to injure each other in life, liberty, or property. For if I reſpect not theſe things in others, how can I expect others to reſpect them in me? This is reaſon, which in the ſtate of nature, is the law of that ſtate; and which in the civil ſtate, is the foundation of all the good laws with which mankind have ever been bleſſed. Therefore, as it never was the *right* of man to do *wrong*, and as it would be wrong for one man to injure another, ſo it cannot be a privilege of the natural ſtate to commit injuſtice, which, in a well regulated civil ſtate would not paſs unpuniſhed. But if any one ſhould ſtill incline to the opinion that to do wrong is a privilege of the ſtate of nature, to ſuch we obſerve, that the ſooner this unreaſonable privilege be "ſurrendered to the Sovereign," and thence baniſhed forever from the preſence of man, the better; nor ſhould we in the civil ſtate loſe much liberty by its flight.

But if the perpetration of offences oppugnant to reaſon and juſtice, be a privilege of the natural, it is alſo, we contend, equally a privilege of the civil ſtate. Men have the ſame power to violate the great maxims of juſtice in the civil, that they have in the natural ſtate. The civil ſtate does not nor cannot deprive men of the power to commit injuſtice. They ſtill retain the capability of perpetrating crimes which ſhock humanity and inflict miſery upon human beings. But thoʊ they have the *power* to commit them in *both*, yet they have not the right in *either*. As men may commit murder, the moſt horrid of all crimes, in the natural, ſo they may in the civil ſtate. Nor is this or any other crime leſs juſtifiable in the one than in the other. The only difference that we perceive, in this reſpect, between the two ſtates, is this, that in the civil ſtate laws compels ſubmiſſion to their regular operation. Whereas there being no law in the natural ſtate to compel obedience, offenders add to their offences by reſiſting that puniſhment which reaſon preſcribes and individual ſafety requires.

But we will allow, to ſhew the abſurdity of the poſi-

tion, that to do wrong or to commit injuſtice, is a privilege of the natural ſtate; yet, for what purpoſe is it neceſſary that this privilege ſhould be ſurrendered by individuals to the ſtate unleſs to be exerciſed by the ſovereign to whom the ſurrender is made? And if to be exerciſed by the ſovereign or whole, how is it to operate but by abuſing its parts? If this ſuppoſed privilege of nature be ſo exceedingly baleful that individuals cannot uſe it in the civil ſtate without injuring each other, and the whole, how much more injurious would it be for the ſtate to poſſeſs and exerciſe it? What muſt be the ſituation of the ſtate when ſaturated with this load of abomination? Would the mighty maſs of peccancy and injuſtice lie dormant in the body politic? No. Would there be no danger of fermentation? Yes. Like veſuvius it would belch forth and ſcatter over the pale of its influence, its deteriorating lava. And is it more juſtifiable for a nation to do wrong than for an individual? Beſides if it ever was a privilege of men to do wrong in any ſtate, to ſurrender it is impoſſible. To render mankind incapable of violating moral juſtice, it is neceſſary to *invert nature*, to creat man anew, and of *purer* materials. The buſineſs of ſociety is to prevent as far as poſſible the commiſſion of offences, and where it cannot reaſonably to chaſtiſe them. Therefore, as it never was a privilege of the natural ſtate to infringe the law of reaſon, it follows that that which never was a privilege can never be ſurrendered.

But as men have conceded to the civil ſtate a power to puniſh offences committed againſt the ſafety of its members, have they not, by the conceſſion, ſurrendered a right appertaining to them in the ſtate of nature? If we were to anſwer this queſtion in the affirmative, it would make nothing for thoſe who contend that men cannot enjoy in the civil ſtate their natural rights; ſince, the power to puniſh wrongs is conceded equally by the whole; is founded upon a rule of mutual juſtice, and eſtabliſhed by mutual conſent. This rule can never operate to ſuppreſs or prevent acts promotive of the general

good. Its great province is to puniſh, in a fair and rational way, actions which violate the law of reaſon, diſturb puplic repoſe, and leſſen puplic happineſs. But to this queſtion we anſwer, that ſo far from men ſurrendering any of their natural rights by lodging this power in the civil ſtate, that they thereby acquire privileges which, in the natural ſtate, they cannot poſſibly enjoy.

If men, in any caſe, ſurrender to the civil ſtate, on entering therein, any of the rights which flow from the ſtate of nature, it is by inveſting in the ſovereign punitive powers. In the natural ſtate the right of punition appertains only to the ſuſtainers of injury. For though all offences againſt the law of reaſon are real offences againſt the ſafety of all within their reach, and are truly puniſhable; yet, it is by compact only that thoſe who are not real and immediate ſufferers come by power to puniſh them. But in the natural ſtate it will readily occur to every one that the power to puniſh muſt be frequently wanting in injured perſons. For he who is wicked and daring enough to commit murder, robbery, or any of the leſs offences in the natural, which, by the laws of the civil ſtate, merit legal chaſtiſement, will not voluntarily, ſubmit to a juſt retribution of puniſhment. To compel ſubmiſſion to an equitable rule equally eſtabliſhed, forms a principal part of civil government. But though in this aſſociation a power to puniſh infractions of its rules is veſted, yet, the natural right of each individual is not thereby impaired. Every man, who, in the civil ſtate, ſuſtains criminal offence, has the ſame right to puniſh the criminal by law that he has in the natural ſtate by reaſon. So that, on entering the civil ſtate, we ſurrender not our natural right of puniſhing perſonal injuries. In the commutation we loſe nothing: on the contrary we gain by the change. For if, in the civil ſtate, criminal offence be committed againſt me; though I myſelf have the right to proſecute the offender to puniſhment, yet, if unable, from whatever cauſe, the ſtate muſt proſecute for me. This privilege of the civil belongs not to the natural ſtate. It is merely acquired by and reſults from men combining together for reciprocal protection. So that,

in the civil ſtate, the natural right of individuals to puniſh offences committed againſt them, is not only preſerved in its purity and fulneſs, but they have, in addition, the whole community to aid them. Therefore, ſo far from inveſting ſociety with punitive power, being a ſurrender of natural rights or privileges, that is a ſubſtantial and happy enlargement of natural liberty.

From what has been ſaid, it reſults,

Firſt, that men never had, in the natural ſtate, a right to do wrong. And as it is evident that no one can ſurrender what he never poſſeſſed, ſo, this cannot be one of the ſuppoſed privileges ſurrendered to the civil ſtate.

Secondly, that if it ever was the right of men to do wrong, that right muſt forever appertain to them in every ſtate: ſince, the right muſt be determined by reaſon, whoſe laws are unalterably the ſame. And as reaſon cannot approve or ſanction that in one man which injures the rights of another, or violates equal juſtice; ſo, to do wrong, or to violate equal juſtice, cannot be a privilege of the ſtate of nature.

Laſtly, the placing power in the civil ſtate, to puniſh offences committed againſt its ſafety, does not impair one jot the right which belong to men in the ſtate of nature, of individually puniſhing individual injuries. But on the contrary this right is not only preſerved in its priſtine ſtate, but is additionally ſtrengthened by the additional acceſſion of the conjoint protection of the ſociety or ſovereign.

Whither then ſhall we ſeek for the "ſurrendered privileges?" Diogenes with his lanthorn and acumen would find it difficult to diſcover them. Of what do they conſiſt? It is plain that governments cannot be conſidered in any other light than as reſtraints upon thoſe actions which, in every ſtate, defies the law of reaſon; but which, in the natural ſtate, cannot conveniently be puniſhed.

A brief analyſis of our actions will make this appear evident.

All the vaſt and vaſtly diverſified actions of men may be claſſed under three heads;

Firſt, virtuous actions, or ſuch as promote individual and general good.

Secondly, indifferent ones, or ſuch as produce neither good nor evil conſequences to ſociety. And,

Thirdly, vicious actions, or ſuch as are evidently pernicious to individuals and to the ſtate.

With reſpect to the firſt—It is evident that government laws can have nothing to do with virtuous actions. Governments are neither inſtituted to prevent nor to puniſh them. And where they do either, they are governments of violence, not of juſtice.

With reſpect to the ſecond—Laws are always indifferent where actions are ſo. They cannot take cognizance of actions which neither produce good nor bad conſequences to the ſtate. They are with theſe as with virtuous ones, mere unimportant and dormant parchments They cannot operate; ſince, men cannot, agreeably to reaſon and to juſt laws, either be puniſhed or rewarded for actions as devoid of utility as they are of evil conſequences.

In regard to the third.---Here laws operate within their province. The power placed in the civil ſtate to puniſh crimes committed againſt the law of reaſon, which, in the natural ſtate, cannot conveniently be puniſhed, here operate in its full force and to accompliſhed the deſigned end, viz. that men may be free from violence and injuſtice. The ſole deſign of government is to prevent men from violating the ſacred rights of each other, and, where it cannot, to puniſh offenders. Governments are of no other uſe among men. Nor can they operate in any other manner without committing the identical injuſtice to prevent which they are inſtituted. Their powers then being ſolely confined to the prevention and puniſhment of actions ſubverſive of juſtice, and which violates the law of reaſon, on which civil laws are founded, it is clear, that, in civil ſocieties ſtanding upon univerſal juſtice, men do not nor cannot ſurrender any of the rights or privileges appertaining to them in the ſtate of nature.

Having ſhewn that men cannot, conſiſtently with reaſon and juſtice, relinquiſh, on entering the civil ſtate, any

of the immunities which appertain to the ſtate of nature; we ſhall now briefly enquire,

How the ſuppoſed privileges are to be relinquiſhed, allowing them to be relinquiſhable; whether according to juſtice, and if ſo, to whom are they to be ſurrendered?

We imagine that even the eſteemers of the ſpurious and trammelling doctrine of ſurrendering natural privileges to the civil ſtate, do not wiſh to be underſtood that a partial and unjuſt relinquiſhment is what they contend for. To be conſiſtent with themſelves they muſt allow, that if by the regular and inevitable operation of entering the civil ſtate, it be really neceſſary for one man to ſurrender thereto a given portion of privileges, it is alſo equally neceſſary for each and every one to give up the ſame portion. If this be not their meaning; if they do not pay due deference to reaſon and juſtice, their diſcourſes may be conſidered as mere political deluſion and fineſſe, by which, at one ſtroke, mankind are meant to be divided into two parts, the one to govern, limited only by power, and the other implicitly to obey. But in this we neither diſcover philoſophy nor philanthropy; we neither ſee reaſon or juſtice; which if they abandon, they are not worth contending with. We ſhall therefore ſuppoſe them to be actuated by pure principle, & advocates for pure and univerſal juſtice: and on this ground we pledge ourſelves to ſhew the utter impoſſibility of making ſuch ſurrender.

This then may, we conceive, be laid down as an axiom, that if it be neceſſary and unavoidable for one man, on entering the civil ſtate, to ſurrender to that ſtate, a given quantity of natural privileges, it is equally neceſſary and unavoidable for every one of the contracting parties to ſurrender an equally given quantity. If it be neceſſary for one man, it is alſo equally neceſſary for another, and for the whole.—A poſition ſo ſelf-evident is not ſuſceptible of additional proof. Suppoſe, then, the citizens of the United States, who are adults, to conſiſt of one million; and that they ſhall all ſurrender to the State an equal number of privileges: Axiom "if equals be taken from equals the wholes are equals;" therefore,

if the ſuppoſed ſurrender of privileges be equally made the identical equality of the natural ſtate, it muſt neceſſarily and unavoidably prevail in the civil; ſince, by taking from each individual an equal quantity of natural privileges, the whole muſt neceſſarily be equal; and conſequently be left in the ſame ſtate of perfect equality in which they were prior to entering into the civil ſtate, and the ſuppoſed ſurrender of natural privileges. Of conſequence, to relinquiſh natural privileges on entering the civil ſtate is abſolutely impoſſible, according to our ideas of reciprocal juſtice; and therefore, the poſition is deſtitute of juſt and rational foundation.

Beſides, when each individual in ſociety has ſurrendered an equal number of natural privileges, to whom, in the name of common ſenſe, are they given? Is it poſſible for a ſtate to contain more than the whole of its inhabitants? every man will anſwer no. And when the whole have ſurrendered an equal number of privileges, who is there to receive them? The anſwer is eaſy, no one. But perhaps it will be ſaid, the ſtate. But of whom is the State compoſed? Of the identical whole who have, it is ſuppoſed, made the ſurrender; which brings the concluſion to the ſame point. Therefore, natural privileges cannot be ſuerrndered to the civil ſtate, where equal right and juſtice prevail.

This expoſition of political equality is not local; the principle will apply to the civil concerns of men, wherein they may be found. Nor can its reaſonableneſs be overthrown: for its baſis is God; therefore, its truth cannot be ſhaken. Power, centered in the hands of wicked and ambitious men, may indeed prevent its practice; and the admirers of *policy*, ſubverſive of juſtice, may advocate its baleſulneſs; but on the ſubject of policy, hear the Poet.

" Philoſophy conſiſts, not in idle ſchemes or airy ſpeculations.
The rule and conduct of all ſocial life are her great precepts.
Not in lonely cells obſcure ſhe lurks,
But holds her heavenly light to Senates and to Kings:
To guide their councils, and teach them to direct and reform mankind.
All policy but her's is weak and rotten.
All valour, not connected by her precepts,

Is a deſtroying fury ſent from hell to plague unhappy man,
And ruin nations."

Thus it is evident thatall juſt governments emenate ſtrictly from the people; that is, from their univerſal equality and conſent. National compacts, therefore, being the property of the people, are to be conſidered at all times revocable by them. They have the ſame right to alter or to annul them, and to inſtitute others, that a man has to delapidate his own houſe, and to erect another in its ſtead. Both theſe rights flow from the ſame ſource, viz. that every man has a right to diſpoſe of his property in ſuch way as may appear moſt conducive to his happineſs. But as wiſe nations do not nor will not change their conſtitutions upon light and trivial grounds, ſo, a wise man will not, for light and trivial cauſes, deſtroy or materially alter his own houſe. So that, notwithſtanding they have the right, yet, wisdom, calmly and deliberately exerciſed, muſt at all times deptermine the exedieney of the change.

CHAP. II.

Of the Corporation of New-York.

It is a queſtion of importance to the citizens of New-York, and has ſome claim to their attention, whether the corporation of the city, all things conſidered, is or not of public utility; and if not, to what cauſe its inutility is attributable? It is time to determine the utility of civil politics by the beneficial effects they produce; eſpecially one of ſuch vaſt expence, and poſſeſſed of ſuch immenſe and deliterious influence as that of our corporation. The heterogenlous cauſes which firſt brought incorporations into being in modern Europe, and which entitled them to ſome deference, do not now, nor never did exiſt within theſe ſtates. We are neither borne down by the imperiouſneſs of baronial tyranny on the one hand, nor moved to compaſſionate the ſufferings of vaſſals on the other. (j) Thoſe dark and barbarous times

(j) *Hume, ſpeaking of corporations, ſays "Even in France, a country which made more early advances in arts and civility than England, the firſt corporation is ſixty years poſterior to the conqueſt under the duke*

are paſſed. But European incorporations produced advantages, *when firſt inſtituted*, which do not nor cannot accompany them in the United States. They introduced a degree of *liberty* within their jurisdictions favorable to the citizens and quite unknown beyond their limits. And though they produced but partial good, yet they were proportionately ſerviceable. But it would be difficult to conceive what corporations have to do with liberty within theſe ſtates, except to baniſh it as ſpeedily as poſſible from them. In a republic like this, where repreſentative ſyſtems of government prevail in great abundance and perfection; and where a greater degree of liberty is enjoyed without then within their jurisdictions, while they can be but of little ſervice to the citizens, they are capable of an infinity of miſchief.

This chapter is intended to ſhew the propriety of altering the preſent mode of appointing the Chief Magiſtrate of the city. For this purpoſe we ſolicit the attention of the reader to the eſtabliſhment of the following propoſitions.

Firſt. That the preſent mode of appointing the Chief magiſtrate of the city is unjuſt.

Second. That to enſure a pure adminiſtration of the Mayoralty, it is eſſential that the Mayor be elected by the citizens over whom he preſides.

Laſtly. That until the citizens enjoy this right, however noxious the Chief magiſtrate may be, they have no power to remove him.

In politics there is, perhaps, no maxim clearer than this, that the people, for whom a Government is intended, have the excluſive right of "chooſing their own governors." For laws being, of right, founded upon the

of Normandy; and the erecting of theſe communities was an invention of Lewis the Groſs, in order to free the people from tyranny under their lords, and to give them protection, by means of certain privileges and a ſeperate jurisdiction. An ancient French writer calls them a new and wicked device to procure liberty to ſlaves, and encourage them in ſhaking off the dominion of their maſters!" Hiſt. of Eng. v. 1. p. 435. Phila. E. 1795.

See alſo Smith's Wealth of Nations, v. 2. p. 87. Phila. E. 1796.

united conduct of men and inſtituted for their ſafety, thoſe for whoſe benefit they are intended are the *only proper persons to determine* the fitneſs of men to make and to adminiſter them. The leaſt interference with this right of ſelf-judgment is unjuſt. For though A. may be more competent to judge of the concerns of B. than B. himſelf, and on that account his judgment may be ſometimes ſolicited, yet for A. to judge for B. by eſtabliſhed rule, againſt his conſent, and with power to bind him by his deciſions, is a moſt unſufferable tyranny. To this concluſion every one will aſſent. And yet if we teſt the appointment of the mayor by this rule we ſhall find that it is founded upon it. This we ſhall do; and that we may be the better underſtood we ſhall ſhew, from the conſtitution the manner of his appointment.

In Art. 18. of the conſtitution, it is provided, "That all officers, other than thoſe who by this conſtitution are directed to be otherwiſe appointed, ſhall be appointed in the manner following, to wit: the aſſembly ſhall, once in every year, openly nominate and appoint one of the ſenators from each great diſtrict, which ſenators ſhall form a council for the appointment of the ſaid officers, of which the governor for the time being, or the lieutenant governor, or the preſident of the ſenate, when they ſhall reſpectively adminiſter the government, ſhall be preſident and have a caſting voice, but no other vote: and with advice and conſent of the ſaid council, ſhall appoint all the ſaid officers; and that a majority of the ſaid council be a quorum; and further, the ſaid ſenators ſhall not be eligible to the ſaid council for two years ſucceſſively." Greenleaf's edition of the laws of New-York, 1798.

Particular proviſion not being made in the conſtitution for the election of the mayor, his appointment falls within the province of this council, which, after a deluſively refining proceſs, conſiſt of four ſenators, one from each diſtrict of the ſtate. To evince the injuſtice of this mode of appointment we ſhall ſhew by analogy that the right of appointing or electing the mayor and (of courſe every corporate officer now appointed by the council) ap-

pertains exclusively to the people within the pale of the corporation: and consequently for other persons to exercise that right is unjust. But as the legislature may, by another part of the constitution of the state take this privilege from the council and transfer it to the citizens within the corporate jurisdiction, it is only for them respectfully to command it and it must be done.

It is meet that the corporation should acknowledge the constitution of the state as its supreme guide, and that all its proceedings should be in coincidence with its principles. For this purpose, as the corporation depends upon the suffrage of the state for its being, it is necessary that the legislature should take cognizance of its proceedings, but only where they are incongruous with the constitution. Under this restriction *only* the people within the corporation should be left to regulate their own concerns.

The business of the corporation, as it respects internal police, is as distant from that of the agregate state, as legislation in one state is from that of another. The corporation is an insular polity, instituted for local purposes: Its boundaries, its jurisdiction, its powers, extend not beyond the confines of the island. (k) It is intended solely to affect the people within its limits or it is not. If it be not, if its jurisdiction be not bounded by a known division of the state, its rights and its powers must be commensurate with it. But this no one will assert. If its jurisdiction extend not beyond the bounds of the city, and it be intended solely for the citizens, which every one must acknowledge, then by the same rule that the people of the state have the sole right of electing the legislature thereof, viz. that of managing their own concerns, those of the city have the exclusive right of electing city officers. The business of the city being distinct from that of the entire state, the state ought not, after suffering a provincial government to be erected within it, to interfere in its ulterior regulations, except as before said, where those regulations clash with the

(k) *See charter of New-York, Geo. II. p.* 35—6.

conſtitution. To interfere in any other caſe is as unjuſt as it would be for one ſtate to interfere in the internal legiſlation of another.

This ſelf-management of ſelf-concerns, is the vital part of government. Accordingly we find that, where there is danger of foreign interference, governments very properly repel it with ſuitable pertinacity. But foreign interference is in its nature relative. The federal government would juſtly term that foreign interference which, contrary to the excluſive management of its own concerns, ſhould be attempted to be introduced into it by a foreign government. So, for the federal government to interfere in the internal regulation of the reſpective ſtates, would be foreign interference. And ſo if this ſtate ſhould intermeddle in the internal political arrangements of Connecticut, notwithſtanding the juxta-poſition of the two ſtates, yet, the interference would be as unjuſt and foreign as if it came from tranſatlantic parts. This neceſſarily flows from this theſis, that ſeperate body politics ought to manage their own concerns. This is the right of ſelf-judgment for which we contend, and which is as applicable to our corporation conſidered with the ſtate, as it is to one ſtate conſidered with another.

If it be fit and requiſite for the council to appoint the mayor of the city, it is equally ſo for them to appoint the aldermen, which they do not. But in the preſent mode in which this buſineſs is tranſacted, we ſee nothing of thoſe cheering improvements, which, generally, have ſo juſtly and eminently diſtinguiſhed American politics. The appointment of the mayor by the council is a faithful tranſcript, implicitly taken, but exiſting under diſſimular circumſtances, of that eſtabliſhed in the charter of George II. At that era England held dominion over theſe ſtates, and it was conſonant with her uſual policy towards them to ſuffer the citizens to enjoy a few unimportant privileges, ſuch as electing aldermen, conſtables and ſo on; but to take eſpecial care that with reſpect to important offices ſuch as mayor, recorder, ſheriff, &c. they ſhould be appointed by the governor, who was appointed by the king. The better to keep the citizens in

vaſſalage, and at the ſame time pleaſingly to reconcile them to that gloomy ſtate, they were ſuffered to enjoy thoſe petty privileges. Like a cunning conqueror who, to perpetuate his conqueſt and to reconcile the conquered to the conqueror, the king was *graciously pleased* to allow the citizens to enjoy privileges from the exerciſe of which, it was conceived, no injury to his domination could reſult. But ſurely there is no occaſion for the ſtate legiſlature to treat the people of the city, in this reſpect, as they were wont to be treated by *this British king*. It is impoſſible for the legiſlature to entertain the idea that imparting to the citizens the right of electing their copo-rate officers, would be dangerous to their power. But if they could, *that power is unjuſt which does not flow from, and the exercise of which does not comport with the liberty of the people*; and therefore its reduction could not be reaſonable ground for regret. But the intereſt of our government is not incompatible with that of the citizens. The intereſt of the one is the intereſt of the other. They are identically the ſame. But this was not the caſe with the government of Great Britain whoſe object was taxation, & therefore the deeper the people were immerged in ſlavery the more of their income might be extorted from them. On the other hand every thing eſtimable to America demanded that ſhe ſhould rid herſelf of the deteſtable yoke as ſoon as circumſtances would permit.

The appointment of the mayor by the council, like every other act not founded upon reaſon, is irreconcilable even with itſelf. Nor is it probable that if the conſtitution had been diſcuſſed in a period of peace, the preſent mode would have been recognized. But having once had being, like many other errors, it has been continued. If the citizens can regulate their corporate concerns in part, without legiſlative interpoſition, why may they not in the whole ſubject to conſtitutional checks for unconſtitutional aberrations? The ſtate compels the corporaion to defray its own expence and at the ſame time deprives the citizens of the right of electing their city officers! This is an extenſive branch of that ſyſtem againſt which the United States contended, and what is ſtill more

ſtrange was even acted upon by the State during the conflict!

That the citizens of the corporation have a right to regulate their own buſineſs is acknowledged by the State Legiſlature, as it reſpects city expence, with which the State has nothing to do as to contribution. Why do not the State provide, by general tax, for defraying the expence of the city? Becauſe that expence being incurred by city regulations *only*, it would be unjuſt for thoſe living beyond its limits and who are not partakers of its benefits, to bear any part of its burdens. In this reſpect the city is conſidered as a ſort of integer, acknowledging, certainly, the ſupremacy of the State, but left to itſelf as to revenue regulations. But if thoſe living without the limits of the city ought not on that account to bear any part of its expence, for the ſame reaſon they ought to have no concern with its internal police. For the State to appoint charter officers to rule *over* the citizens, and to incur expences which muſt be borne ſolely by them, is comparable to quartering State ſoldiers of equal permanence and expence on a particular Town. The freedom of the citizens in both caſes is alike violated; and the injuſtice of the one can only be equalled by the injuſtice of the other.

That the citizens have the Chief magiſtrate thus impoſed upon them, can admit of little doubt. To prove this it will only be neceſſary to advert to the manner of his appointment. The council by which he is appointed, is thus compoſed. Every citizen who pays taxes to the State, and rents a houſe of the yearly value of forty ſhillings is eligible to vote for aſſemblymen. Senators are elected by citizens poſſeſſed of freehold eſtate of the value of an hundred pounds, free of incumbrance. The two houſes being thus compoſed, the aſſembly elect from the Senate the council of appointment. In this council the ſouthern diſtrict, in which the city is comprehended, has one member, who can only be *preſumed* to repreſent the city, ſince the diſtrict of which he is the repreſentative, includes it. It would be a miſapplication of words to term this Senator the repreſentative of the city, whoſe

votes, compared with thoſe of the diſtrict at large, are certainly not more than as one to ſix. But if he was the repreſentative of the city and the only perſon who appoints the Mayor, ſtill, the placing in his hands by the ſtate, the right of the citizens to judge themſelves of the fitneſs of perſons to fill the Mayoralty, is unjuſt. To take from the people this right of ſelf judgment, is dangerous to liberty. Of this no one, poſſeſſed of the ordinary ſenſes of a man, will doubt. We have countleſs and ſtriking facts which invite our attention every day in Europe of the awful effects which reſult from this ſurrender. Nor are we without inſtructive leſſons in our own country of its dangerous tendencies. (l.) It is a ſpecies of that *virtual repreſentation* ſo much admired by Monarchiſts, but which is ſo utterly inconſonant with the genius of republican America. It is the negation of conſtituent immunities, and the never failing operator of the ſlavery of man.

But allowing this Senator to be the repreſentative of the city, and that it is meet he ſhould judge for the citizens, ſtill he is only one oppoſed to three perſons in the Council. And who are they? People who reſide out of the diſtrict in which the city is, and who, for ought we we know, never ſaw it. Theſe gentlemen ſurely will not be called the repreſentatives of the city. In them the citizens have no choice. They are the deputies of diſtricts whoſe intereſt may not accord with that of the city, and whoſe ſentiments may be repugnant to thoſe of the

(l.) Had the Senate of the United States been elected by citizens eligible to vote for members of the houſe of repreſentatives, inſtead of being appointed by State Senates; that moſt baleful inſtrument, the Britiſh treaty, the great Patriarch of all the evils with which the United States are now afflicted, would not, in all probability, have been ratified. Beſides, look at the Senators ſent from what are called federal States, examine their ſpeeches and votes, and compare them with the ſpirit of the revolution and the ſound principles of the federal conſtitution, and every intelligent man will ſee juſt and ſerious cauſe for regret, that the people themſelves do not elect them. There is nothing more common in this ſtate than to ſee Republicans deputed by the people & federaliſts appointed by the Senate. A plain proof that where the people ſuffer others to judge for them they are in danger of being miſrepreſented. But perhaps this is one of thoſe ineffable checks and balances eulogized by Preſident Adams!

citizens. They are men over whom the citizens of New-York have no controul. They may therefore impose upon them a Chief-magistrate of turbulent & acerberous disposition, and who in every respect is opposed to their sentiments and wishes. And where is the remedy?

It is to be expected, from every thing the world has hitherto furnished, that the sentiments and administration of the Mayor will accord with considerable exactitude with the sentiments of those by whom he is appointed. This has been peculiarly verified by the present incumbent. The members of the council of appointment for years back have been federalists; and so is the Mayor who has held that office *ten years*. What has been the consequence? Every one who is acquainted with his general administration need not be told of the partiality he has exhibited towards those of federal sentiments, and the rancour and enmity to Republicans. No one is so ignorant as not to know what he has done both in public and private life to exalt the one and to sink the other. But this was to have been and may in future be expected, unless the Legislature should, in their wisdom, give to the citizens the right of his election. This is the only radical cure.—In the city there is a large and unequivocal majority of republicans; but what will this avail the citizens unless it should be so far the case throughout the States, as that in the Assembly there should be a constant majority; or even then, unless in the senate there should be one republican Senator from three of the four districts? The citizens might still be saddled with a Mayor of sentiments hostile to their own; and who, like Burke's king, would hold the Mayoralty in "contempt of their choice." Is this freedom? Is this representation? Is it political justice.

To secure a faithful execution of office and a decent respect for the sentiments of the people, it is essential that the officers of government be elected by them. To make them independent of this only source of power, is to make the people subservient to their views. This is an inversion of order. This is political injustice. Whereas to make them *really* dependent upon the people is of itself sufficient to induce measures consistent with their

happineſs, and to impel even a Nero to deeds of juſtice and of mercy.

To accompliſh this end in the preſent caſe, it is neceſſary that the citizens within the limits of the corporation, who are eligible to vote for aſſemblymen, ſhould elect the Mayor. In this caſe, if his reliance upon them ſhould not, contrary to rational calculation and univerſal experience, induce a juſt adminiſtration, they might at the end of the period for which he ſhould be elected, ſupercede him. This is a neceſſary part of election, that the people may, by ingenuous diſcuſſions, determine how far thoſe whom they have honored with their truſt & confidence, merit their continuance. But at preſent, tho' the citizens may ſpeak of the adminiſtration of the Mayor, yet having no choice in his election however iniquitous that adminiſtration may be, they cannot remove him. They may indeed hope that he may be a good man, and if it ſhould ſo happen it is well; but if not, they have him "for better and for worſe;" they are obliged to bear with him. The prevalence of republicaniſm throughout the ſtate may produce a ſalutary change of men; and this is the only ground of hope from the preſent mode of appointment. But though a change thus effected would be acceptable; yet for the citizens conſtantly to rely upon this contingence, even ſhould it be as conſtantly realized, would be improper inaſmuch as the *ſtate* and not *themſelves* would furniſh the city with its Chief Magiſtrate. (m)

Such are the peculiar hardſhips under which the citizens labour from the preſent ſyſtem!

Where the ſucceſs of actions depend upon efforts proportioned to the end, men exert themſelves with cheer-

(m) We are not desirous of copying political systems implicitly. But where we can cull choice parts from systems compounded of good and bad materials, no friend to human improvement can object to it. Even in London, the seat of every thing venal, the freemen choose their own mayor. And notwithstanding Pitt, in the plenitude of his intrigue and seduction, endeavoured at the last election to impose upon them a Chief Magistrate of his own choice, yet we have seen, with admiration, that all his schemes were unavailing. The firmness of the freemen was superior to all the arts of this disturber of human repose.

fulneſs. But, when by uncommon exertions the attainment of objects ardently deſired borders on impoſſibility, the neceſſary excitement to ultimate ſucceſs diminiſhes; and inſtead of being arouſed to actions apportioned to the magnitude of the prize, we are too apt to ſuccumb under the incumbent and unpleaſing preſſure. Such is the gloomy proſpect of the citizens of New-York from the preſent mode of appointing the chief magiſtrate! There are no exertions of which they are capable, abſtractedly conſidered from the reſt of the ſtate, by which they can at all effect the mayor. If, as before ſaid, the city ſhould continue to ſend republican repreſentatives to the aſſembly, and by a fortuitous concurrence of circumſtances the other parts of the ſtate ſhould not, what power have they to remove the mayor however much his removal might be deſired? None. Where then is the liberty of the citizens in this reſpect? To ſay that men are free when their freedom depends upon the will of others, is as great a contradiction as to ſay that the ſame thing can be and not be at the ſame time. Freedom conſiſts in one man being free from the reſtraints of others. But in this reſpect the citizens are as much bound by the will of the ſtate, in a matter which, of right, only concerns themſelves, as a ſlave is by the will of his owner: and the influence they have in the appointment of the mayor is little more than if he was appointed by the king of England.

Such a ſyſtem ill accords with juſtice and the political improvements of America. Nor is it conſiſtent with the wiſdom of the legiſlature to ſuffer its continuance. It peculiarly behoves the preſent legiſlature ſeriouſly to conſider this ſubject. Much indeed depends upon it. Beneficial effects will doubtleſs reſult from a change of men at the preſent juncture. But *permanent* good can only be expected from a radical change in the *ſyſtem*. Let the legiſlature give to the city the right of electing its Chief Magiſtrate, and by ſo doing the independance of the citizens and perhaps the freedom of the ſtate, will be preſerved. This, we repeat, is the only ſource from

which durable good can be expected. For if from inattention or any other cauſe the republicaniſm of the ſtate ſhould not, at the next ſeſſion, predominate in the aſſembly, what may be done by this, may be undone by the next legiſlature. Whereas if the citizens once poſſeſs the right of electing the mayor, it would not be an eaſy matter at any ſubſequent period, to wreſt it from them.

JAMES CHEETHAM.

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